



11-08-02

3627

Practitioner's Docket No. 387953

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: William H. Barber

Application No.: 09/578,631
Filed: 25 May 2000

Group No.: 3627
Examiner: John Francis Bartuska

For: DISK DISPENSING AND RETRIEVAL SYSTEM AND ASSOCIATED METHODS [as amended]

Box Fee Amendment
Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING
via EXPRESS MAIL

"Express Mail" label number: EV 045205675 US
Date of Deposit: 7 November 2002

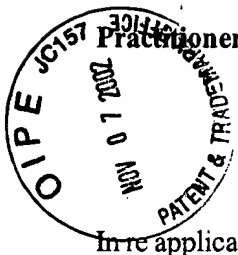
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GROUP 3600

I hereby state that the following *attached* papers

1. Transmittal – 2 pages
2. Copy of Certificate of Mailing filed November 6, 2002 – 1 page
3. Copy of Transmittal Form PTO/SB/21, filed November 6, 2002 – 1 page
4. Copy of Fee Transmittal filed November 6, 2002 – 1 page
5. Copy of Check No. 2772 in the amount of \$630.00, filed November 6, 2002 – 1 page
6. Copy of Petition for 3 month Extension of Time under 37 CFR 1.136(a) – 1 page
7. Copy of Response to Office Action filed November 6, 2002 – 8 pages
8. Copy of Declaration Under 37 CFR 1.131 of Bill Barber, filed November 6, 2002 – 4 pages
9. **Exhibits 1-19 – 28 pages**
10. Copy of Declaration Under 37 CFR 1.63, filed November 6, 2002 – 2 pages
11. Copy of Recordation Form Cover Sheet, filed November 6, 2002 – 2 pages
12. Copy of Assignment, filed November 6, 2002 – 1 page
13. Copy of Request for Correction of Inventorship, filed November 6, 2002 – 2 pages
14. Copy of Statement of Inventorship by added inventor Tomasi, filed November 6, 2002 – 1 page
15. Copy of Consent of Assignee, filed November 6, 2002 – 1 page
16. New Certificate of Mailing – 1 page
17. Pre-addressed postcard

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Heather Fedor



Practitioner's Docket No. 387953

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In re application of: William H. Barber

Application No.: 09/578,631
Filed: 25 May 2000

Group No.: 3627
Examiner: John Francis Bartuska

For: DISK DISPENSING AND RETRIEVAL SYSTEM AND ASSOCIATED METHODS [as amended]

Box Fee Amendment
Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING
via EXPRESS MAIL

"Express Mail" label number: EV 045205684 US
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EV045205684US

I hereby state that the following *attached* papers

1. Transmittal – 1 page
2. Fee Transmittal – 1 page + 1 copy
3. Check No. 2772 in the amount of \$630.00
4. Petition for 3 month Extension of Time under 37 CFR 1.136(a) – 1 page
5. Response to Office Action of May 8, 2002 – 8 pages
6. Declaration Under 37 CFR 1.131 of Bill Barber – 4 pages
7. Declaration Under 37 CFR 1.63 – 2 pages
8. Recordation Form Cover Sheet – 2 pages
9. Assignment – 1 page
10. Request for Correction of Inventorship – 2 pages
11. Statement of Inventorship by added inventor Tomasi – 1 page
12. Consent of Assignee – 1 page
13. Certificate of Mailing – 1 page
14. Pre-addressed postcard

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GROUP 3600

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Michelle Ford
Michelle Ford

COPY





IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) William H. Barber

Serial No. 09/578,631

Filed: 25 May 2000

For: DISK DISPENSING AND RETRIEVAL
SYSTEM AND ASSOCIATED METHODS
[amended]

Group Art Unit: 3627

Examiner: Francis
John
Bartuska
387953

Attorney
Docket Number

Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR CORRECTION OF INVENTORSHIP
Under 37 CFR 1.48(a)

Dear Sir:

Applicants request a change of inventorship in accordance with the provisions of 37 CFR 1.48(a), as the correct inventors were not named in the executed oath of the present application.

1. Applicants request correction of inventorship to list the following persons as the actual inventors of this application:

William H. Barber

Philip J. Tomasi

2. Statement from erroneously omitted inventor Philip J. Tomasi is provided to show that the error in inventorship occurred without deceptive intent.

CERTIFICATE UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being

☒ deposited with the United States Postal Services in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 with sufficient postage:

MAILING

☐ 37 CFR 1.8(a)
as first class mail

☒ 37 CFR 1.10
as "Express Mail Post Office to
Addressee" Mailing Label No. EV 045205684 US

Date:

11/6/02

Michelle Ford
Michelle Ford

3. A new oath/declaration is being submitted by the actual inventors as permitted by 37 CFR §1.42 or 1.43 or 1.47;

4. A check in the amount of \$130.00 is enclosed in accordance with 37 CFR §1.17(i);

Respectfully submitted,

Date: 11-6-02

Curtis A. Vock
Curtis A. Vock, Reg. No. 38,356
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 300
Boulder, Colorado 80301
Tele: (720) 931-3011
Fax: (720) 931-3001



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	William H. Barber et al.	Group Art Unit:	3627
Serial No.	09/578,631	Examiner:	Francis John Bartuska
Filed:	25 May 2000	Attorney Docket Number	387953
For:	DISK DISPENSING AND RETRIEVAL SYSTEM WITH AUTOMATED QUALITY CONTROL AND INTERNET USAGE FEEDBACK		

Commissioner for Patents
Washington, D.C. 20231

STATEMENT OF INVENTOR

1. I, Philip J. Tomasi, state that I am an inventor on U.S. Patent Application No. 09/578,631, filed 25 May 2000, entitled Disk Dispensing and Retrieval System With Automated Quality Control and Internet Usage Feedback
2. I state that through error, I was improperly omitted as an inventor of the above-identified patent application.
3. I hereby state that this error occurred without deceptive intention on my part.

Date: 11/05/02


Philip J. Tomasi

CERTIFICATE UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being

.. deposited with the United States Postal Services in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 with sufficient postage:

.. 37 CFR 1.8(a)
as first class mail

MAILING

.. 37 CFR 1.10
as "Express Mail Post Office to Addressee" Mailing Label No. EV 045205684/03

Date: 11/6/02


Michelle Ford

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IN THE UNITED STATES PATENT OFFICE

Applicant(s):	William H. Barber et al.	Group Art Unit:	3627
Serial No.	09/578,631	Examiner:	Francis John Bartuska
Filed:	25 May 2000	Attorney Docket No.	387953
For:	DISK DISPENSING AND RETRIEVAL SYSTEM WITH AUTOMATED QUALITY CONTROL AND INTERNET USAGE FEEDBACK		

Commissioner for Patents
Washington, D.C. 20231

CONSENT OF ASSIGNEE TO CHANGE INVENTORSHIP

Pursuant to 37 CFR §3.73(b), the undersigned certifies that he is the Chief Executive Officer of FreeFlyr, Inc., and as such is authorized to act on behalf of FreeFlyr, Inc., that FreeFlyr, Inc. is owner by assignment of the entire right, title and interest in the patent application identified above and any patent to issue there from; and a copy of the Assignment document is submitted herewith.

As the proper Assignee of the invention described in Serial No. 09/578,631, FreeFlyr, Inc. hereby consents to the change of Inventorship referenced herein.

William H. Barber
Chief Executive Officer
FreeFlyr, Inc.

CERTIFICATE UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Services in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231 with sufficient postage:

37 CFR 1.8(a)

.. as first class mail

Date:

11/6/02

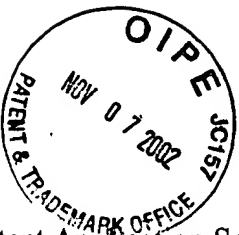
MAILING

37 CFR 1.10

X
as "Express Mail Post Office to Addressee" Mailing Label No. EV 045205684 US

Michelle Ford

COPY



IN THE UNITED STATES PATENT OFFICE

Patent Application Serial No. 09/578,631)

Group No.: 3627

Filed: May 25, 2000)

Examiner: F. Bartuska

Title: DISK DISPENSING AND RETRIEVAL SYSTEM)

AND ASSOCIATED METHODS [amended])

Inventors: Willam H. Barber)

Express Mail Certificate Under 37 CFR §1.10

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addresses" service under 337 CFR 1.10 Express Mail Label No. **EV 045205684US** on the date indicated below and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

DATE

11/6/02

Michelle Ford

Michelle Ford

BOX FEE AMENDMENT
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

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GROUP 3600

RESPONSE

Sir:

These Amendments and Remarks are responsive to the Office Action mailed May 8, 2002. A petition for a three-month extension of time is included herewith to extend the period of response to and including November 8, 2002.

Please amend the title of the application to: DISK DISPENSING AND RETRIEVAL SYSTEM AND ASSOCIATED METHODS.

Please amend claims 24, 35, 65, 76 as in the following "CLEAN VERSION OF AMENDED CLAIMS." The marked up version of the amended claims is set out after the signatory page of this Amendment.

Serial No. 09/578,631

Amendment and Remarks responsive to
Office Action mailed May 8, 2002

Page 1

COPY

CLEAN VERSION OF AMENDED CLAIMS:

24. (Once amended) The system of claim 23, wherein said instructions for directing said second set of instructions further comprises:

instructions for directing said second processor to record information of each said optical storage media that said user requests.

35. (Once amended) The system of claim 34, wherein said advertisements are promotions for optical media available at said kiosk.

65. (Once amended) The method of claim 64, further comprising the step of:
recording information of each said optical storage media that said user requests in said user profile.

76. (Once amended) The method of claim 75, wherein said advertisements are promotions for optical media available at said kiosk

REMARKS

The following remarks attend to each outstanding issue raised by the Examiner in the pending May 8, 2002 office action. The indication of allowable subject matter in claims 16, 17, 57 and 58 is appreciated. No claims are canceled; accordingly claims 1-83 are pending in this application; claims 1 and 43 being independent.

Claim rejections - 35 U.S.C §102

Claims 1, 18, 20, 21, 23, 24, 26, 43, 50, 51, 53, 59, 61, 62, 64, 65, 67 and 68 stand rejected as being anticipated under 35 U.S.C. §102(e) by U.S. Patent No. 6,182,857 ("Hamm"). Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 1, 18, 20, 21, 23, 24, 26, 43, 50, 51, 53, 59, 61, 62, 64, 65, 67 and 68. Applicants enclose a declaration under 37 C.F.R. §1.131 and MPEP 715 to antedate Hamm. The declaration specifically shows conception of the invention prior to the effective date (December 31, 1998) of Hamm and due diligence from this conception to the effective filing date of this present application (the '631 Application).

Accordingly, we have shown why Hamm is avoided and inapplicable as prior art to the present '631 Application. For these reasons and more, Applicants contend that claims 1, 18, 20, 21, 23, 24, 26, 43, 50, 51, 53, 59, 61, 62, 64, 65, 67 and 68 are allowable and request reconsideration.

Claim rejections - 35 U.S.C §103

Claims 2-8, 27-29, 42, 44-53, 60-62, 69, 70 and 83 stand rejected as being unpatentable over U.S. Patent No. 5,934,439 ("Kano") in view of Hamm, under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 2-8, 27-29, 42, 44-53, 60-62, 69, 70 and 83, as set forth in the attached Rule 131 declaration.

Kanoh also does not render claims 2-8, 27-29, 42, 44-53, 60-62, 69, 70 and 83 *prima facie* obvious. The following is a quotation of from the MPEP setting forth the three basic criteria that must be met to establish a *prima facie* case of obviousness:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP, § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Among other reasons, for example, Kanoh does not teach each and every feature of claims 2-8, 27-29, 42, 44-53, 60-62, 69, 70 and 83, and cannot therefore anticipate or render these claims obvious. Reconsideration is requested.

As applied to Applicants' claim 2, claims 30-32, 71 and 72 stand rejected as being unpatentable over Kanoh in view of Hamm, and further in view of U.S. Patent No. 5,822,291 ("Brindze"), under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 30-32, 71 and 72, as set forth in the attached Rule 131 declaration.

Kanoh and Brindze also do not render claims 30-32, 71 and 72 *prima facie* obvious, since, among other reasons, Kanoh and Brindze fail to teach every element of claims 30-32, 71 and 72. Reconsideration is requested.

Claims 9-12 and 19 stand rejected as being unpatentable over Hamm in view of U.S. Patent No. 4,915,205 ("Reid"), under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 9-12 and 19, as set forth in the attached Rule 131 declaration.

Reid also does not render claims 9-12 and 19 *prima facie* obvious, since, among other reasons, Reid fails to teach every element of claims 9-12 and 19. Reconsideration is requested.

Claims 13, 54, 55 and 56 stand rejected as being unpatentable over Hamm in view of U.S. Patent No. 5,938,510 ("Takahashi"), under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 13, 54, 55 and 56, as set forth in the attached Rule 131 declaration.

Takahashi also does not render claims 13, 54, 55 and 56 *prima facie* obvious, since, among other reasons, Takahashi fails to teach every element of claims 13, 54, 55 and 56. Reconsideration is requested.

As applied to claim 2, claims 14 and 15 stand rejected as being unpatentable over Kanoh in view of Hamm, and further in view of Takahashi, under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 14 and 15, as set forth in the attached Rule 131 declaration.

Kanoh and Takahashi also do not render claims 14 and 15 *prima facie* obvious, since, among other reasons, Kanoh and Takahashi fail to teach every element of claims 14 and 15. Reconsideration is requested.

Claims 22, 36-38, 63, 77-79 stand rejected as being unpatentable over Hamm in view of U.S. Patent No. 6,289,322 ("Kitchen"), under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 22, 36-38, 63, 77-79, as set forth in the attached Rule 131 declaration.

Kitchen also does not render claims 22, 36-38, 63, 77-79 *prima facie* obvious, since, among other reasons, Kitchen fails to teach every element of claims 22, 36-38, 63, 77-79. Reconsideration is requested.

Claims 25, 34, 35, 66, 75 and 76 stand rejected as being unpatentable over Hamm in view of U.S. Patent No. 5,724,521 ("Dedrick"), under 35 U.S.C. §103. Applicants respectfully

disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 25, 34, 35, 66, 75 and 76, as set forth in the attached Rule 131 declaration.

Dedrick also does not render claims 25, 34, 35, 66, 75 and 76 *prima facie* obvious, since, among other reasons, Dedrick fails to teach every element of claims 25, 34, 35, 66, 75 and 76. Reconsideration is requested.

Claims 33, 73 and 74 stand rejected as being unpatentable over Hamm in view of U.S. Patent No. 5,900,608 ("Iida"), under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 33, 73 and 74, as set forth in the attached Rule 131 declaration.

Iida also does not render claims 33, 73 and 74 *prima facie* obvious, since, among other reasons, Iida fails to teach every element of claims 33, 73 and 74. Reconsideration is requested.

Claims 39-41 and 80-82 stand rejected as being unpatentable over Hamm in view Iida, under 35 U.S.C. §103. Applicants respectfully disagree and traverse the rejection since, among other reasons, Hamm is not prior art to the inventions of claims 39-41 and 80-82, as set forth in the attached Rule 131 declaration.

Iida also does not render claims 39-41 and 80-82 *prima facie* obvious, since, among other reasons, Iida fails to teach every element of claims 39-41 and 80-82. Reconsideration is requested.

In summary, we have shown why claims 1-83 patentably distinguish over the art and that Hamm is inapplicable as a prior art 35 U.S.C. §102(e) reference to these claims. Reconsideration and allowance of claims 1-83 is hereby requested.

Claim rejections - 35 U.S.C §112

Claim 35 stands rejected due to antecedent basis of "advertisements." Claim 35 is amended to correctly depend from claim 34, obviating this rejection since advertisements is clearly recited in claim 34. Reconsideration is requested.

Claim 76 stands rejected due to antecedent basis of "advertisements." Claim 76 is amended to correctly depend from claim 75, obviating this rejection since advertisements is clearly recited in claim 75. Reconsideration is requested.

Other than the petition for the three-month extension of time, no fees are deemed due in connection with this response. If however any additional fee is due in connection with this response, please charge Deposit Account No. 12-0600.

Respectfully submitted,

Dated: 11-6-02

By: Curtis A. Vock
Curtis A. Vock, Reg. No. 38,356
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 302
Boulder, CO 80301
Telephone: (720) 931-3011
Facsimile: (720) 931-3001

VERSION WITH MARKINGS TO SHOW CHANGES MADE

24. (Once amended) The system of claim 23, wherein said instructions for directing said second set of instructions further comprises:

instructions for directing said second processor to[:] record information of each said optical storage media that said user requests.

35. (Once amended) The system of claim [33]34, wherein said advertisements are promotions for optical media available at said kiosk.

65. (Once amended) The method of claim 64, further comprising the step of:
recording information of each said optical storage media that said user requests in said user profile.

76. (Once amended) The method of claim [43]75, wherein said advertisements are promotions for optical media available at said kiosk

COPY

PTO/SB/21 (08-00)

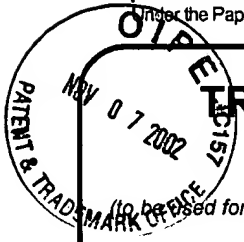
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Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/578,631	
	Filing Date	25 May 2000
	First Named Inventor	William H. Barber
	Group Art Unit	3627
Examiner Name	Francis John Bartuska	
Total Number of Pages in This Submission	26	
Attorney Docket Number	387953	

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Declaration under 37 CFR 1.131 Declaration under 37 CFR 1.63 Request to Correct Inventorship Assignee Consent to Correction Statement by Inventor Tomasi Certificate of Mailing Return Postcard
Remarks		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Curtis A. Vock
Signature	<i>Curtis A. Vock</i>
Date	11-6-02

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 6 November 2002			
Typed or printed name	Michelle Ford		
Signature	<i>Michelle Ford</i>	Dat	11/6/02

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FREE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$) 630

Complete If Known

Application Number 09/578,631
 Filing Date 25 May 2000
 First Named Inventor William H. Barber
 Examiner Name Francis John Bartuska
 Group / Art Unit 3627
 Attorney Docket No. 387953

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METHOD OF PAYMENT (check one)				FEE CALCULATION (continued)																																																																																																																																																																																																		
1. <input type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any over payments to: Deposit Account Number 12-0600 Deposit Account Name Lathrop & Gage L.C. <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27				3. ADDITIONAL FEES <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>105</td><td>130</td><td>205</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>127</td><td>50</td><td>227</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet.</td><td></td></tr> <tr><td>139</td><td>130</td><td>139</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>147</td><td>2,520</td><td>147</td><td>2,520</td><td>For filing a request for reexamination</td><td></td></tr> <tr><td>112</td><td>920*</td><td>112</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>113</td><td>1,840*</td><td>113</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>115</td><td>110</td><td>215</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>116</td><td>400</td><td>216</td><td>200</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>117</td><td>920</td><td>217</td><td>460</td><td>Extension for reply within third month</td><td>460</td></tr> <tr><td>118</td><td>1,440</td><td>218</td><td>720</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>128</td><td>1,960</td><td>228</td><td>980</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>119</td><td>320</td><td>219</td><td>160</td><td>Notice of Appeal</td><td></td></tr> <tr><td>120</td><td>320</td><td>220</td><td>160</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>121</td><td>280</td><td>221</td><td>140</td><td>Request for oral hearing</td><td></td></tr> <tr><td>138</td><td>1,510</td><td>138</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>140</td><td>110</td><td>240</td><td>55</td><td>Petition to revive - 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**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Curtis A. Vock	Registration No. Attorney/Agent)	38,356
Signature	<i>Curtis A. Vock</i>	Telephone	720-931-3000
		Date	11-6-02

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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2772

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4845 PEARL EAST CIR., SUITE 300
BOULDER, CO 80301
PH. (303) 449-5800

DATE Nov. 5, 2002 82-196-1070

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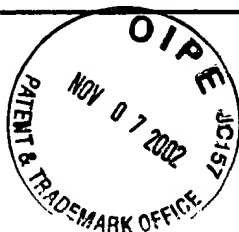
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Chris W. Vail

⑈002772⑈+⑈107001960⑈ 02⑈5068⑈3⑈

COPY

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)
387953

In re Application of William H. Barber

Application Number 09/578,631

Filed 25 May 2000

For DISK DISPENSING AND RETRIEVAL SYSTEM AND
ASSOCIATED METHODS [amended]Group Art Unit
3627Examiner
Francis John Bartuska

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☐ One month (37 CFR 1.17(a)(1)) \$ _____
- ☐ Two months (37 CFR 1.17(a)(2)) \$ _____
- ☒ Three months (37 CFR 1.17(a)(3)) \$ 920.00
- ☐ Four months (37 CFR 1.17(a)(4)) \$ _____
- ☐ Five months (37 CFR 1.17(a)(5)) \$ _____

☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 460.00.

☒ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

☐ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 12-0600.

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71

Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☒ attorney or agent of record.

☐ attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a). _____

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

11-6-02

Date

Signature

Curtis A. Vock, Reg. 38,356

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

Burden Hour Statement: This form is estimated to take 0.1 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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9/10

IN THE UNITED STATES PATENT OFFICE

Patent Application Serial No. 09/578,631

Group No.: 3627

Filed: May 25, 2000

Examiner: F. Bartuska

Title: DISK DISPENSING AND RETRIEVAL SYSTEM
AND ASSOCIATED METHODS [as amended]

Inventors: Willam H. Barber

Express Mail Certificate Under 37 CFR §1.10

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addresses" service under 37 CFR 1.10 Express Mail Label No. EV 045205675 US on the date indicated below and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231

7 November 2002

DATE

Heather Fedor

Heather Fedor

BOX FEE AMENDMENT
ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

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SUPPLEMENTAL TRANSMITTAL

GROUP 3600

Sir:

This transmittal is responsive to the Office Action mailed May 8, 2002. A response to this Office Action was mailed yesterday (on November 6, 2002) – except that the Exhibits to the Rule 131 declaration were missing. Accordingly, we enclose another complete copy of the response of November 6, 2002 and enclose all the required exhibits which accompany the Rule 131 declaration. The undersigned called Examiner Bartuska regarding this omission and subsequent transmittal. As this supplemental transmittal is within the period provided for by the petition for a three-month extension of time, filed November 6, 2002, this response is complete within the allotted time and fully responsive to the issues in the outstanding May 8, 2002 office action.

We accordingly attach the following papers:

Serial No. 09/578,631
Supplemental Transmittal, Amendment and Remarks responsive to
Office Action mailed May 8, 2002

1. Transmittal – 2 pages
2. Copy of Certificate of Mailing (filed November 6, 2002)
3. Copy of Transmittal Form PTO/SB/21 (filed November 6, 2002)
4. Copy of Fee Transmittal (filed November 6, 2002)
5. Copy of Check No. 2772 paid to the USPTO in the amount of \$630.00 (filed November 6, 2002)
6. Copy of Petition for 3 month Extension of Time (filed November 6, 2002)
7. Copy of Response to Office Action– 8 pages (filed November 6, 2002)
8. Copy of Declaration Under 37 CFR 1.131 of Bill Barber - 4 pages (filed November 6, 2002) plus 28 pages of Exhibits to Rule 131 Declaration.
9. Copy of Declaration Under 37 CFR 1.63 – 2 pages (filed November 6, 2002)
10. Copy of Recordation Form Cover Sheet – 2 pages (filed November 6, 2002)
11. Copy of Assignment – 1 page (filed November 6, 2002)
12. Copy of Request for Correction of Inventorship – 2 pages (filed November 6, 2002)
13. Copy of Statement of Inventorship by added inventor Tomasi – 1 page (filed November 6, 2002)
14. Copy of Consent of Assignee – 1 page (filed November 6, 2002)
15. New Certificate of Mailing
16. Pre-addressed postcard

No fees are deemed due in connection with this supplemental transmittal. If however any additional fee is due in connection with this response, please charge Deposit Account No. 12–0600.

Respectfully submitted,

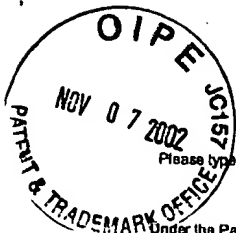
Dated: November 7, 2002

By: Curtis A. Vock
Curtis A. Vock, Reg. No. 38,356
LATHROP & GAGE L.C.
4845 Pearl East Circle, Suite 302
Boulder, CO 80301
Telephone: (720) 931-3011
Facsimile: (720) 931-3001

Serial No. 09/578,631

Supplemental Transmittal, Amendment and Remarks responsive to
Office Action mailed May 8, 2002

Page 2



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PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63) <input type="checkbox"/> Declaration Submitted With Initial Filing <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)	Attorney Docket Number	387953
	First Named Inventor	William H. Barber et al.
	COMPLETE IF KNOWN	
	Application Number	09/578,631
	Filing Date	25 May 2000
	Group Art Unit	3627
	Examiner Name	Francis John Bartuska

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DISK DISPENSING AND RETRIEVAL SYSTEM WITH AUTOMATED QUALITY CONTROL AND INTERNET USAGE FEEDBACK

the specification of which (Title of the Invention)

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY)

05/25/2000

as United States Application Number or PCT International

Application Number 09/578,631 and was amended on (MM/DD/YYYY) (Herewith) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims as amended specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Country	Priority Not Claimed	Certified Copy Attached?	
					YES	NO
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.
60/135,854 60/143,601	25 May 1999 13 July 1999	

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 21 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

COPY

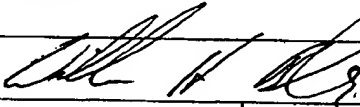
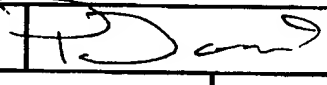
Please type a plus sign (+) inside this box → +

PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032
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DECLARATION — Utility or Design Patent Application

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Name							
Address							
Address							
City				State		ZIP	
Country			Telephone			Fax	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.							
NAME OF SOLE OR FIRST INVENTOR:				<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name William H.				Family Name or Surname Barber			
Inventor's Signature 						Date 11/04/02	
Residence: City Thousand Oaks			State CA		Country USA		Citizenship USA
Mailing Address 1845 Brush Oak Court							
Mailing Address							
City Thousand Oaks		State CA		ZIP 91320		Country USA	
NAME OF SECOND INVENTOR:				<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name Phillip J.				Family Name or Surname Tomasi			
Inventor's Signature 						Date 11/04/02	
Residence: City Newbury Park			State CA		Country USA		Citizenship USA
Mailing Address 1115 Del Verde Court							
Mailing Address							
City Newbury Park		State CA		ZIP 91320		Country USA	
<input type="checkbox"/> Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.							

FORM PTO-1615
Expires 06/30/99
OMB 0651-0027

U.S. Department of Commerce
Patent and Trademark Office
PATENT

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☐ Resubmission (Non-Recordation)
 Document ID #
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 Reel # Frame #
☐ Corrective Document
 Reel # Frame #

Conveyance Type

- ☒ Assignment
☐ License
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☐ Security Agreement
☐ Change of Name
☐ Other

U.S. Government

(For Use ONLY by U.S. Government Agencies)

- ☐ Departmental File ☐ Secret File

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Name (line 1) William H. Barber

Execution Date
Month Day Year
11 04 2002

Name (line 2)

Second Party

Name (line 1) Philip J. Tomasi

Execution Date
Month Day Year
11 04 2002

Name (line 2)

Receiving Party

☐ Mark if additional names of receiving parties attached

Name (line 1) Freeflyr, Inc.

Name (line 2)

Address (line 1) 750 University Avenue

Address (line 2) Suite 280

Address (line 3) Los Gatos

CA

95032

City

State/Country

Zip Code

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

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Mail documents to be recorded with required cover sheet(s) information to:
 Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

COPY

C Correspondent Name and Address

Area Code and Telephone Number

720-931-3000

Name Curtis A. Vock, Esq.

Address (line 1) Lathrop & Gage L.C.

Address (line 2) 4845 Pearl East Circle, Suite 300

Address (line 3) Boulder, CO 80301

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments

1

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached.

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

09/578,631

Patent Number(s)

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number
only if a U.S. Application
Number as not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

Number of Properties

Enter the total number of properties involved.

1

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment:

Enclosed ☒

Deposit Account ☐

Deposit Account

Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

12-0600

Authorization to charge additional fees:

Yes ☒

No ☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Curtis A. Vock, Reg. No. 38,356

Name of Person Signing

Signature

Date

11-6-02

Express Mail Label No. EV 045205684 US

Docket No.: 387953

PATENT

ASSIGNMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, WE, the undersigned, William H. Barber and Philip J. Tomasi do hereby sell, assign, and transfer to FreeFlyr Inc., a corporation of Delaware, having a place at 750 University Avenue, Suite 280, Los Gatos, California 95032 ("Assignee"), its successors, assigns, and legal representatives, the entire right, title and interest for the United States and all foreign countries, in and to any and all inventions and improvements which are disclosed in the application for United States Letters Patent,

() which has been executed by the undersigned concurrently herewith,
 (X) which was filed on 25 May 2000 and assigned Serial No. 09/578,631

and is entitled **DISK DISPENSING AND RETRIEVAL SYSTEM WITH AUTOMATED QUALITY CONTROL AND INTERNET USAGE FEEDBACK** and in and to said application and all divisional, continuing, substitute, renewal, reissue, and all other applications for Letters Patent which have been or shall be filed in the United States and all foreign countries on any of said improvements; and in and to all original and reissued patents which have been or shall be issued in the United States and all foreign countries on said improvements; and in and to all rights of priority resulting from the filing of said United States application; and

Agree that said Assignee may apply for and receive Letters Patent for said improvements in its own name; and that, when requested, without charge to, but at the expense of, said Assignee, its successors, assigns and legal representatives, to carry out in good faith the intent and purpose of this Assignment, the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all said improvements; execute all rightful oaths, assignments, powers of attorney and other papers; communicate to said Assignee, its successors, assigns, and representatives, all facts known to the undersigned relating to said improvements and the history thereof; and generally do everything possible which said Assignee, its successors, assigns or representatives shall consider desirable for aiding in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements and all applications to patents and all patents on said improvements, in said Assignee, its successors, assigns and legal representatives; and

Covenant, with said Assignee, its successors, assigns and legal representatives that no assignment, grant mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

Name: William H. Barber

Date: 11/04/02

Name: Philip J. Tomasi

Date: 11/9/02**COPY**

THE Concept is A DVD Vending Kiosk.
It Will House A TOUCH SCREEN DISPLAY Connected
to A Computer, A SCANNER to quickly test the condition
of OUTGOING & INCOMING disks, A RANDOM STACKING
SYSTEM WITH A SERIAL # READER, A CREDIT CARD
CHARGING SYSTEM, A DISPENSING & RETRIEVAL SYSTEM
AND A DISPENSER FOR TYVEK OR SOME OTHER PROTECTIVE
SLEEVE FOR THE DISKS. ALSO A PRINTER FOR RECEIPTS
AND/OR MOVIE NOTES, PREFERABLY ONTO THE
PROTECTIVE SLEEVE.

THE SYSTEM COULD BE USED AS A MOVIE (DVD)(DVDR)
RENTAL & SALES KIOSK. I MAY ALSO HAVE OTHER
APPLICATIONS SUCH AS CD ROM SALES, DATA MANAGEMENT
FOR IN-HOUSE CD ROM STORAGE & RETRIEVAL IN LIBRARIES
OR COMPANY DATA STORAGE AREAS.

THE DESIGN WILL BE MODULAR ENOUGH TO
ADAPT TO DIFFERENT DISK SIZES AS THE INDUSTRY
MOVES TO SMALLER FORMATS, AND SHOULD BE
PROTOTYPED BY THE END OF 1998.

B. Bly June 17, 1998

JUNE 22nd 1998,



CHRISMAN BYNUM & JOHNSON

CHRISMAN, BYNUM & JOHNSON, P.C.
ATTORNEYS AND COUNSELORS AT LAW
1900 FIFTEENTH STREET
BOULDER, COLORADO 80302
TELEPHONE 303.444.4820
FACSIMILE 303.449.5426

SCOTT B. ALLISON
ATTORNEY AT LAW
PATENTS, TRADEMARKS & COPYRIGHTS
sba@cbj.com

MET w/ SCOTT ALLISON

CHRISMAN, BYNUM, & JOHNSON

1 1/2 hour meeting regarding CB & J MERITS
COVERED F&A. ISSUES — no obligation

PATENT POSSIBILITIES

CB & J CAPABILITIES

RELEASED DVD KIOSK CONCEPT

collected info on I.P. & Book "PATENT IT YOURSELF"

MET w/ STEVE CONLEY OF
COOLY GODWORD (CG)

1/2 HOUR MEETING Regarding merits
of C.G. EXPERIENCE, GOD INTERNATIONAL &
HIGH TECH (I.T.) EXP.

RELEASED DVD KIOSK CONCEPT

GATHERED BIO INFO ON Jim LINEFIELD

COVERED F&A. ISSUE — no obligations.

PATENT ISSUES DEFERRED

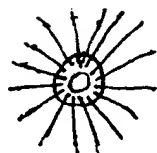
Jim LINEFIELD TRAVELS 2/14 DAYS

ENDS UP BEING 1/5 TIME AWAY. DIFFICULT TO CONTACT?

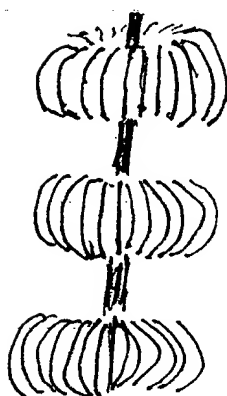
Possible Disk Configurations

June 23, 1998
B. Bels

TOP VIEW

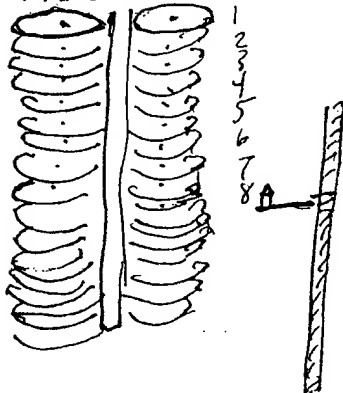


SIDE VIEW

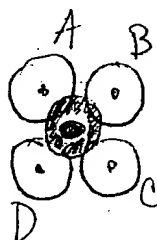


- OR -

SIDE VIEW



TOP VIEW



INDIVIDUAL SLOTS ASSOCIATED NUMBER (B36)
PULLING MECHANISM RETRIEVES AND
RESTACKS RANDOMLY RECORDING DISK
SERIAL # WITH SLOT #.

June 23, 1998
B. Baly

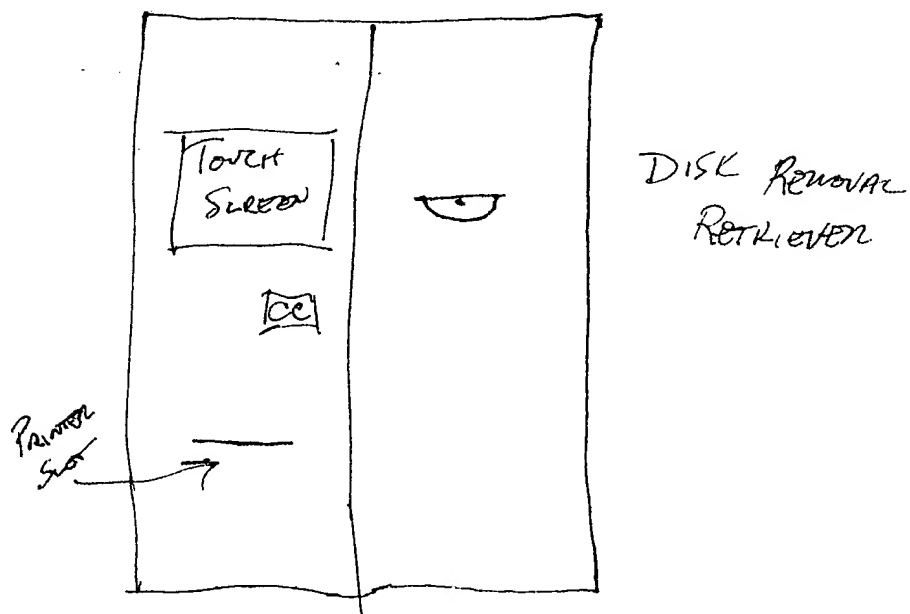
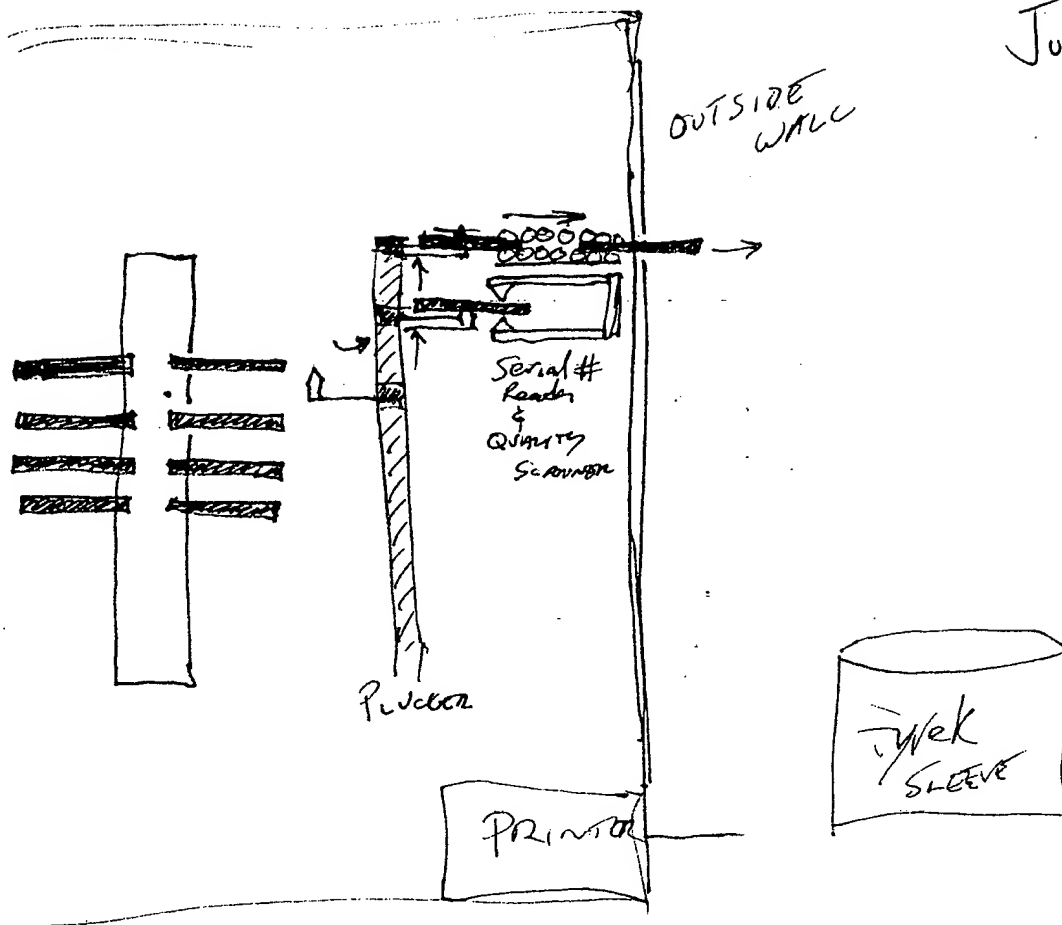


EXHIBIT 3

June 26, 1998 B. Baker

Called Back by Steve Conley
From Cary Godard RE C.G. Representation.
Turned me down w/ explanation that they
were too busy to pursue early stage
start-ups. Said they would watch my progress.
It had taken 5 days and the client
service rep to get back to me. Recommended
Tim Carpenter @ Hutchinson Back

Spoke w/ Phil Tomasi about disk assessment
hardware. He will talk w/ optical experts
about best technologies for assessing scratches
and playability of disks. Maybe serial #
assigned record of disk quality on way out and
on way in to maintain continual ongoing
record to alleviate disputes by renters that
scratches occurred prior to rental. This may
have individual product viability. Rental stores
may want ^{desktop} product to assess DVD rentability.



13274 Fiji Way
Marina del Rey
CA 90292-7090

June 30th

B.

Bob ~~KREMER~~ KREMER
X 7300

THEATRE LAND
X 7305

EVAN H. HITCHCOCK
Sales

310 577-7700 X7350
310 574-2867 fax
EHitchcock@infonorth.com
www.infonorth.com

called North Com INTEREST LATER

re meeting on July 13th

Bob KREMER Returned call, Meeting @ 9:00-11:00 ^{July 13th} call to
confirm tour w/ THEATRE LAND

CU Business Library

Industry Information from STANDARD & POORS
"Industry Surveys" "Movies & Home Entertainment"
MAY '98

1997 Data	\$16.8B	Total <	\$9.2B	Rental
			7.6B	SELT THROUGH
1998 Forecast	\$17.5B	Total <	9.5B	Rental
			8.0B	SALES

THIS IS 3X WHAT IS SPENT ON BOX OFFICE
THEATRE VISITS.

Bob Bob Kremer -
Regional SALES manager Lower Rocky Mtns
bkremer@infonorth.com

July 2, 1998 B. Bala

Feasibility Plan
Financials Projected

SPOKE w/ SALES REPS @ 28th STREET
BLOCKBUSTER VIDEO re. STATISTICAL BUSINESS.

AVG # MAN HOURS PER DAY

RANDOM TUESDAY = 37.7 HOURS

AVERAGE \approx 45 MAN HOURS

$\times 7 \text{ days} = 315 \text{ manhours/week}$

AVG # MOVIES RENTED PER NIGHT

RANDOM TUESDAY = 44/ NOTED Below Average

WEEKEND \approx 1500

MAX from his store seen \approx 3500 NOTED small store ^{Low Volume}

Conservative average estimate \approx 1000 / night

NEED Disk Depreciation Schedule

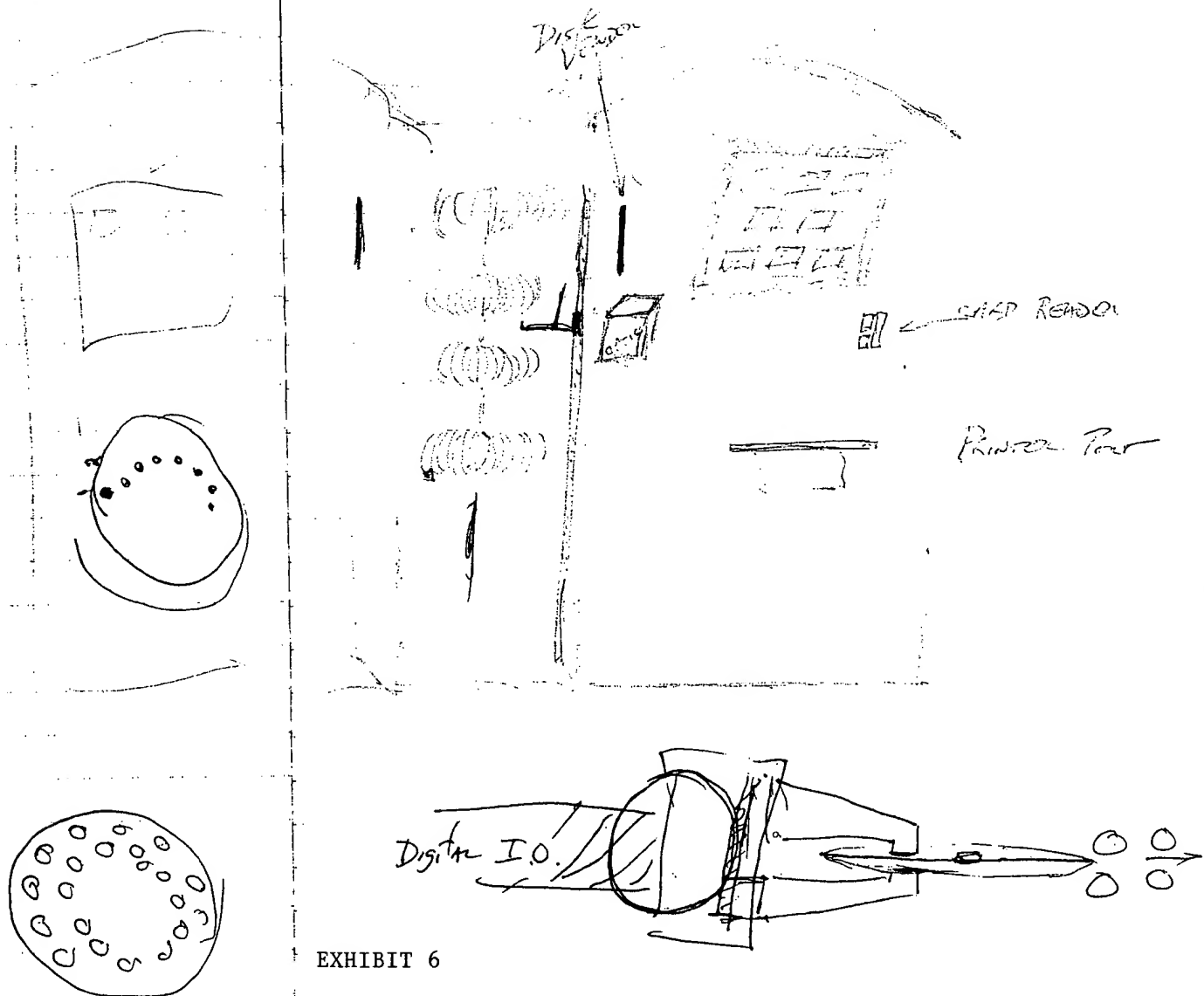


BAKER & TAYLOR

Information and Entertainment Services

Eric Van Lom
Telemarketing
Sales Representative

Baker & Taylor Entertainment
3005 S. Parker Rd., Suite #318
Aurora, CO 80014
Tel: 303 369 9229 ext. 250
Tel: 800 775 3300 ext. 250
Fax: 303 369 9669



July 7, 1998 B. Gale

20 TRANSACTIONS / NIGHT IS NORMAL SO IS WAY HIGH
\$ 250,000 SOFTWARE
TIMING IS KEY

± 20% GIVE AWAY TO ^{Kiosk} HOUSING UNIT (ie safety etc)

6 month development cycle

MEETING WITH RICK MARONE & TANYA
FROM K.I.S.

SIGNED CONFIDENTIAL INFORMATION AGREEMENT

SHARED DISK KIOSK concept and details
OF PLANNED DESIGN.

K.I.S. CONCERNS INCLUDED

- OPTICAL SENSING COMPLEXITY
- DISK TRANSPORTING SYSTEM
- SOFTWARE DEVELOPMENT COSTS FOR
- MANIPULATION OF DISKS AND DAMAGE TO DISKS.

• MARKETING

MY EXPERIENCE ^(OR LACK) WITH THIS TYPE OF PROJECT.

- TIMING OF EXACT CUSTOMER.

5min/ in 4 hour
PRIME WINDOW?

Bill
Bly

July 31st 1998

Conference Call with

Bob Krenel

NORTH SITES Rep

PETER JENNINGS

NORTH APAS ENGINEER

PHIL TOMASI

Bill BARBER

DISCUSSED NECESSARY HARDWARE AND SOFTWARE TOOLS, SUCH AS SERIAL PORT VS PARALLEL PORTS FOR PHYSICAL MANIPULATION DEVICES IN KIOSK. ALSO SOFTWARE PROGRAMMING LANGUAGES FOR MOTOR CONTROLLERS. PHIL QUESTIONED PETER JENNINGS RE. COMPATIBILITY ISSUES TO PROACTIVELY MANAGE OPTICAL SENSOR & DISK TRANSDUCER DESIGN COMPATIBILITY. ALSO, LOYOLA & SIDE CAR DIMENSIONS. PHIL WILL GO IN TO MEET WITH NORTH NEXT WEEK TO MEASURE OUT INTERNAL SPACE REQUIREMENTS OF LOYOLA & SIDE CAR.

SET UP MEETING WITH GARY BLOOMER OF BOULDER TECHNOLOGY INCUBATOR FOR NEXT WEEK. (AUG 5)

ALSO SET UP MEETING W/ SCOTT MACKAY TO LOOK @ FINANCIALS (SUNDAY AUG 2)

AUG 5, 1998

B. Kelly

B T I Boulder Tech Incubator

Met with Gary Bloomer VP.

DISCUSSED PROS & CONS OF JOINING TECH INCUBATOR

CLIENT FEES 400,000 - Budget

\$120,000 - CLIENT FEES (Rent)

Rent for 280,000

Non-Profit
Donations

Non-Profit Grants
Gifts, Equity
Positions in Companies

OFFICE SPACE

EQUITY Model supports excess
5-7%

Boulder \$500 cubicle
\$750 office

Logan { \$500 office hold 5 people

Rocky Flats

GRANTS FOR LEGAL PATENT PURSUIT
CAN APPLY FOR \$5000 GRANT THROUGH
ROCKY FLATS FOR PATENT FEE HELP.

SPOKE w/ PHIL TOMASI. HAS MEETING FRIDAY, AUG 7th w/
NORTH TO MEASURE LOYOLA & SIDE CAR. E-mail @ Verbatin
GAVE HIM CHARLES PLUMER
cplumer@sanyo-verbatin.ca

AUGUST 22, 1998

B.B.G.

Computer search @ business library
for information on CD MANUFACTURING
& PATENTS ON CD SURFACE DEFECTS

<http://www.patents.ibm.com>

found web pages for manufacturers

Sony - Verbatim

Pioneer Video

Digital Matrix

OTARI

STERG HAMATECH

BASLER IMAGE PROCESSING

Sent e-mail messages to Sony & Pioneer &
STERG Hamatech Requesting info on simple scratch &
Dig inspection equipment.

PATENTS Found for CCD surface defect
pat# 5726705 For Automobiles

BB & 9-3-98

AUG 31 → SEPT 3 1998

MET W/ PHIL TOMASI IN THOUSAND OAKS
TALKED ABOUT DEVELOPMENT PLAN

MET W/ TRISTAN DAY IN SANTA BARBARA TO TALK
ABOUT SOFTWARE DEVELOPMENT

WED SEPT 3rd

MEETING W/ BOB KREMER &
PETER JENNINGS @ NORTH COMAN
IN MARINA DEL REY.

TALKED ABOUT NEXT STEPS IN
APPLICATION DEVELOPMENT.

WE CAN DO SOFTWARE (SAVE ≈ \$50000)

PURCHASED TOUCH SCREEN ^{\$1300} & 1 COPY OF
"NET GAIN" SOFTWARE. ^{\$259}

DROVE BACK TO SANTA BARBARA TO FURTHER
DISCUSS SOFTWARE W/ TRISTAN DAY.

PURCHASED 3 USED AUTO CD PLAYERS AND ^{\$60}
DISMANTLED TO VIEW TRANSPORT MECHANISM.
CONICAL ROLLERS GRAB OUTSIDE OF DISK AND SPRING
CLUTCH ALLOWS FOR DIFFERENT PRESSURE.

EXHIBIT 10

PURCHASED DVD-ROM DRIVE AND INSTALLED
IN PHIL'S HOME COMPUTER
INSTALLED TOUCH SCREEN AS WELL ON
SAME SYSTEM.

9-27-98

DEMO EVALUATION OF SONY'S CDL5000
HEAVY SYSTEM BUT TOO LARGE
FOR NORTH KIOSK SIDE CAR.
GOOD DISK TRANSFER SPEED

CYGNET

B. Ball
10-13-98

DEMO EVALUATION OF CYGNET
INFINIDVD SYSTEM.

EXCELLENT! Double CAROUSEL ²⁵⁰ DISK
each. MODULAR. BEST DRIVEN
PLUCKER CAN deliver to EXIT
MECHANISM. SAVES ENGINEERING
TIME. RACK MOUNTABLE MEANS IT
CAN BE BUILT UP RIGHT INTO SIDEAR.

NATOMI GIOIA - 916 - 682-6263
WESTERN Regional Sales 8793 Loganberry Pl
ELK GROVE CA 95624

HORATIO ULESCU 1800 - 7CYGNET
PRODUCT MANAGER

30 DAY EVAL. P.O. # 5025

10-30-98

HUTCHINSON

CDROM

GORDON

SIGNED BTI LEASE
RECEIVED SIGNED COPY OF ROCKY MOUNTAINS
INITIATIVE \$5000 DEVELOPMENT GRANT.

SPOKE W/ GARY B.
JERRY D.
DAVE REGER

ABOUT BTI NEEDS

- 5% OWNERS EQUITY
- TIMELINE DEVELOPMENT
- OFFICE NEEDS

11-2-98

1st DAY @ BTI

- RECEIVED BLOCK DIAGRAM FROM PHIL
FORWARDED TO DAVE HUNTLEY

PHONE SERVICE CONNECTION AND
VOICE MAIL SERVICE IN PLACE

PURCHASED PHONE	OFFICE DEPOT
FOLDERS	\$101.90
STAPLER	
TAPE	etc
MARKERS	
CALENDAR	1999

11-5-98



CHRISMAN BYNUM & JOHNSON

ATTORNEYS AND COUNSELORS AT LAW
1900 FIFTEENTH STREET
BOULDER, COLORADO 80302
TELEPHONE 303.546.1300
FACSIMILE 303.449.5426

DAVID J. WILLBRAND
ATTORNEY AT LAW
E-MAIL DJW@CBJ.COM

303-

546-

1319

Direct

MEETING w/ DAVID WILLBRAND
FROM CBJT Re. Business entity.
AND POSSIBLE EQUITY FOR SERVICES PLAN.

RECEIVED e-mailed copy of proposed plan
on 11-13-98

11-19-98 B. Balg

~~11-20-98~~

PHIL HAS A REALIZATION

SIMPLE SOLUTION?

WHOLE CYGNET SYSTEM COULD FIT IN
THE LOYOLA WITHOUT THE SIDE CAR.

DESIGN WORKS ON PAPER WITH CURRENT ROUGH
MEASUREMENTS OF KIOSK.

TRIP TO NORTH COMAN -

- FLAT SCREEN WON'T FIT IN KIOSK BEVEL
- C.R.T. ANGLED WOULD BUMP INTO CYGNET
BOX.

DRAWINGS DILEMMA AGAIN!

- OTHER NORTH SYSTEM (DESKTOP) COULD
WORK AS A FRONT END WITH OUR OWN BOX
FOR THE CYGNET. EXTRA WORK.

NOT SIMPLE

11-20-98

BACK @ THE CYGNET

TOP 6 INCHES ARE EMPTY!

CRT SCREEN MIGHT FIT!

GOT A DEMO EVALUATION UNIT
OF THE LOYOLA BOX TO TEST
WITH CORRECTED MEASUREMENTS AND
FIT FOR A 19" RACK MOUNT SYSTEM
COMPATIBLE W/ THE CYGNET.

PROGRESS!

PHIL WILL HAVE THE UNIT FOR TWO
WEEK EVALUATION. CAN MEASURE, FIT,
& EXAMINE! WE ALREADY HAVE
TOUCH SCREEN & CYGNET!

11-23-98

Bill Bly

Phone Call w/ Phil.

Loyola NOT VIABLE. NEED TO
GENERATE DRAWINGS ON NEW BOX WITH
HOUSING SPACE FOR PERIPHERALS

11/30/98

Bill Bly

NEW Computer (DELL INSPIRON 7000 LAPTOP)
ARRIVES.

Software installation

12-7-98

tms1@worldnet.att.net

Meeting w/ ~~THE~~ Szczyrek

NOT AVAILABLE FOR Advisory Committee.

THE 5 P's

- PEOPLE
- PRODUCT
- PRICE
- PLACEMENT
- PROMOTION

unmet needs WHO ARE MOST likely
USERS

NEED USER PROFILE Verify Market w/ PROTOTYPE & QUESTIONNAIRE
RESEARCH Demographics, Usage & Locations

Meeting w/ Bill Roberts
Horne Roberts & Owen

ENTITY

What does it own

NAME & TRADEMARK

* OPERATIONAL Agreement

LLC FILING IS EASY, OPERATIONAL
Agreement TOUGH. Need HARDWARE & Software
to be PROPERTY OF THE ENTITY

12-8-98

B. L. S.

MEETING w/ DAVE WILLBRAND LUNCH MTR.
C B & J Re

PAYMENT PROPOSAL FOR SERVICES.
SPOKE ABOUT BENEFITS & PROBLEMS OF AN
EQUITY SHARING POSITION. DISCOUNTED PRICING IS
AT APPROXIMATELY $\frac{1}{2}$ NORMAL FEES. CONSIDERATION
FOR EXTRAORDINARY TRANSACTIONS SEEMS QUITE HIGH.
ALL STILL NEGOTIABLE.

MET w/ MARK EBEL
& HEIDI GLANCE RE.
HOLLAND HART ATTORNEYS.
PRICING IS DOUBLE C B & J
BUT EXPERIENCE LEVEL
APPEARS GREATER. EQUITY
STAKE MAY EXIST IN FUTURE
(6 MONTHS). DENVER BASED.

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12-16-98

FLEW DAVE WORTHLEY INTO BORGANIL FROM
SAN FRANCISCO. MET W/ PHIL & DAVE
TO INTRODUCE THE TWO AND DISCUSSED -

- NECESSARY CONFIGURATION ISSUES AND COMPATABILITY.
- NEED FOR NORTH LOYOLA
- NEED FOR NET GAIN
- DATABASE STRUCTURE
- HARDWARE INTERACTIONS
- SOFTWARE NEEDS
- INFORMATIONAL TRANSFER
- PERSONNEL CAPABILITIES
- TIMING AND INFORMATION SHARING
- BUSINESS PHILOSOPHY

1-5-98

CONTACTED

CASE LOGIC Re: Disk Sleeves

SEACE & ASSOCIATES: Axiotm Card Readers
DYNAPRO Touch Screens
Ruggedized Computers
Kiosk Printers

SWECCOIN : Kiosk Printers
ELO : Touch Screen

ORDERED EVALUATION UNITS OF
Kiosk THERMAL PRINTER - Swecca
MAGSTRIP CARD READER - Axiotm
TOUCH SCREEN - ELO
DISK SLEEVES - CASE LOGIC

Spoke w/ MARK EBEL Re LLC Formation
Pricing. Heidi Grace would be the
MAIN Contact. Waiting for call back

1-6-98

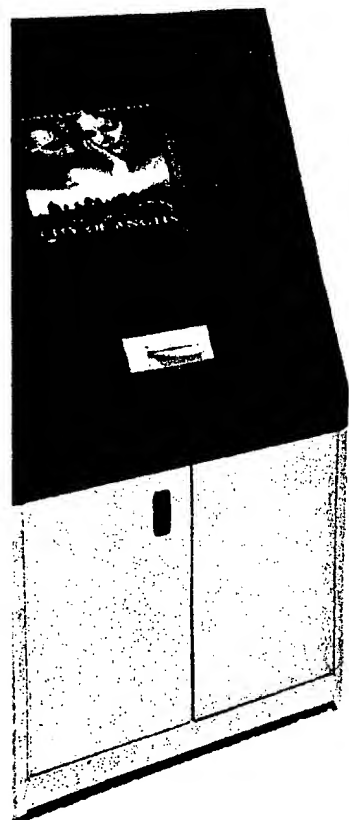
Spoke w/ DAVE Cook
CHRISMAN Bynum & Johnson
Re. Pricing structure for LLC
Formation.
4:00 meeting @ CB!!

Spoke w/ Bruce Roberts re Pricing for LLC
formation & IP Assignment.
verbal estimate = \$1000

Automated and Sale Of

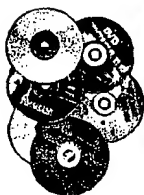


ovies



Product

Freeflyr is building a network of stand-alone, unmanned kiosks that will allow rental and/or sale of video releases on DVDs. The kiosks have a footprint of less than 7 square feet and can be installed at a variety of locations, i.e. universities, grocery stores, bus stops, train stations, office and apartment buildings, and in drive-up windows. Each kiosk holds up to 500 CD sized disks.



Consumer Benefits

The system is as easy to use as a station pay-at-the-pump system, and considerably more convenient than a trip to a video store. The key is locating kiosks in areas that are re-visited by customers on consecutive days, eliminating the "special trip" to the video store for selection and return. Customers will be attracted to improved convenience, entertainment during transaction, time availability, and quality of product. So it will be possible to check for title availability and make reservations for specific kiosks over the Internet.

Opportunity

Kiosk owners will benefit from comparable market pricing for DVD product while enjoying high performance locations and operating costs that are estimated at 1/20th that of a conventional store. Another major benefit comes from the advertising capabilities of the kiosk monitor before, during, and after transactions.

In addition, continual information is transmitted via data lines from each kiosk to a central server that can provide real-time transaction monitoring, analyze consumer trends, stocking requirements, operating efficiency data, and secure information.

FreeFlyr
Automated

303-443-7416
4001 Discovery Drive, Suite 390-A
Boulder, CO 80303



IN THE UNITED STATES PATENT OFFICE

Patent Application Serial No. 09/578,631)	Group No.: 3627
)	
Filed: May 25, 2000)	Examiner: F. Bartuska
)	
Title: DISK DISPENSING AND RETRIEVAL SYSTEM)	
WITH AUTOMATIC QUALITY CONTROL)	
AND INTERNET USAGE FEEDBACK)	
)	
Inventors: William H. Barber)	

DECLARATION OF WILLIAM H. BARBER
IN ACCORDANCE WITH 37 CFR §1.131

I, William H. Barber, hereby declare:

1. I am a named inventor in U.S. Patent Application No. 09/578,631 (the '631 Application), filed on May 25, 2000.
2. I currently reside at 1845 Brush Oak Court, Thousand Oaks, CA 91320; I have obtained the following university degrees: B.A. (UCSB, 1987), M.B.A. (CU, 1998)
3. I am a founder, CEO and president of Freeflyr, Inc., which owns all right, title and interest in and the '631 Application.
4. I have studied and understood the specification and claims in the '631 Application. The claims of the '631 Application generally relate to a disk dispensing and retrieval system, and methods thereof, such as to dispense a DVD to users.
5. I have read and understood the contents of the Office Action dated May 8, 2002 for this '631 Application.
4. I have read and understood the references cited by the Examiner in the Office Action of May 8, 2002, in particular, United States Patent No. 6,182,857, issued February 6, 2001 to Hamm et al.
5. This Declaration is being presented under 37 C.F.R. §1.131 to show prior invention by virtue of conception prior to the effective filing date (December 31, 1998) of Hamm et al. and continued due diligence from conception to an effective reduction to practice in the effective filing date of the '631 Application.
6. Attached hereto are Exhibits 1-19, which are copies from my lab notebook ("Lab Notebook") stored in a safe deposit box at Wells Fargo Bank, 140 E. Thousand Oaks Blvd Thousand Oaks, CA 91360.

COPY

7. Exhibit 1 is one page of the Lab Notebook dated June 17, 1998 and describing (a) a design for a disk dispensing and retrieval system and (b) a plan for prototyping the disk dispensing and retrieval system in 1998.
8. Exhibit 2 is one page of the Lab Notebook dated June 22, 1998 and describing meetings with lawyers at the law firms of Chrisman, Bynum & Johnson and Cooley Godward; these meetings included discussions regarding the patenting of the disk dispensing and retrieval system.
9. Exhibit 3 consists of two pages of the Lab Notebook dated June 23, 1998 and illustrating possible disk configurations for the disk dispensing and retrieval system.
10. Exhibit 4 is one page of the Lab Notebook dated June 26, 1998 and describing a telephone call with Cooley Godward and further development of the disk dispensing and retrieval system with Philip Tomasi, another named inventor of this '631 Application.
11. Exhibit 5 is one page of the Lab Notebook dated June 30, 1998 and describing (a) market research for the disk dispensing and retrieval system and (b) a meeting with North Communications, which was considered a possible commercialization partner.
12. Exhibit 6 consists of three pages of the Lab Notebook, dated July 2, 1998 through July 7, 1998, and describing (a) market research regarding Blockbuster video rentals, (b) further kiosk design illustrations, and (c) a confidential meeting with K.I.S. regarding engineering design for the disk dispensing and retrieval system.
13. Exhibit 7 is one page of the Lab Notebook dated July 31, 1998 and describing a conference call with Philip Tomasi and North Communication, regarding kiosk design particulars.
14. Exhibit 8 is one page of the Lab Notebook dated August 5, 1998 and describing a meeting with Gary Bloomer of the Boulder Technology Incubator, to assist in commercialization of the disk dispensing and retrieval system.
15. Exhibit 9 is one page of the Lab Notebook dated August 20, 1998 and describing a patent search and contact with CD equipment manufacturers.
16. Exhibit 10 consists of two pages of the Lab Notebook dated August 31, 1998 and describing a meeting with Philip Tomasi regarding a development plan for the disk dispensing and retrieval system; Exhibit 10 further describes purchase and installation of a DVD-ROM drive and touch screen prototype.
17. Exhibit 11 consists of two pages of the Lab Notebook dated September 27, 1998 and October 13, 1998, respectively, which describe testing of CD and DVD transport systems.
18. Exhibit 12 is one page of the Lab Notebook dated October 30, 1998 and describing signing a lease with Boulder Technology Incubator, to assist in commercializing the disk

dispensing and retrieval system.

19. Exhibit 13 is one page of the Lab Notebook dated November 2, 1998 and describing further development of the disk dispensing and retrieval system during a first residence day at the Boulder Technology Incubator.
20. Exhibit 14 is one page of the Lab Notebook dated November 5, 1998 and describing a meeting with the Chrisman, Bynum and Johnson law firm regarding forming a business entity to commercialize the disk dispensing and retrieval system.
21. Exhibit 15 consists of three pages of the Lab Notebook dated November 19, 1998, November 20, 1998, and November 23, 1998, respectively, and describing design particulars for the disk dispensing and retrieval system.
22. Exhibit 16 consists of two pages of the Lab Notebook dated December 7, 1998 and December 8, 1998, respectively, and describing meetings with potential lawyers and advisory board members to assist in commercializing the disk dispensing and retrieval system.
23. Exhibit 17 is one page of the Lab Notebook dated December 16, 1998 and describing further design issues for the disk dispensing and retrieval system.
24. Exhibit 18 consists of two pages of the Lab Notebook dated January 5, 1999 and January 6, 1999 (these pages incorrectly recite 1998), respectively, and describing further DVD kiosk development and meetings with lawyers to discuss forming an LLC to commercialize the disk dispensing and retrieval system; this LLC was formed January 15, 1999 as Freeflyr, LLC, which merged into Freeflyr, Inc. August 16, 2000.
25. Exhibit 19 is one page of the Lab Notebook setting forth press release collateral of the disk dispensing and retrieval system for use in public meetings after May 25, 1999; the press release was prepared during a period of January 1, 1999 and May 25, 1999.
26. From the fall of 1998 to May of 1999, I and Philip Tomasi prepared materials for filing of a patent application for the disk dispensing and retrieval system; that patent application was filed on May 25, 1999 as U.S. Application Serial No. 60/135,854 (the '854 Application) and included mechanical drawings for DVD transfer mechanisms, a prototype electronic layout and system architecture.
27. From May of 1999 to July of 1999, I and Philip Tomasi prepared materials for filing of a patent application for the disk dispensing and retrieval system; that patent application was filed on July 13, 1999 as U.S. Application Serial No. 60/143,601 (the '601 Application) and included mechanical drawings for DVD transfer mechanisms and source code.
28. The present '631 Application incorporates disclosure from, and claims priority to, the '854 Application and the '601 Application.

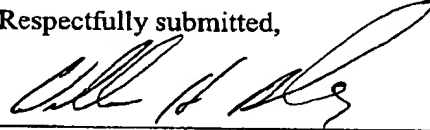
I hereby declare that all statements made herein of my own knowledge are true and that

all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any patent issued thereon.

Dated

11/04/2002

Respectfully submitted,



William H. Barber